

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 544 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE and
MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

RAMCHAND NEWANDRAM MEWANI

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 544 of 1996
MR PB SHARMA for Petitioner
Mr. S.T.Mehta, Ld.PUBLIC PROSECUTOR for Respondent No. 1
SERVED for Respondent No. 2, 5
MR VASANT S SHAH for Respondent No. 4

CORAM : MR.JUSTICE S.D.DAVE and
MR.JUSTICE H.R.SHELAT
Date of decision: 23/07/96

ORAL JUDGEMENT

Per: Dave, J:-

The present proceedings which are obviously in nature of habeas corpus petition require to be disposed

of.

The petitioner is one Ramchand Mewani. He has approached us for a writ of habeas corpus, saying that, his son has been detained illegally by Respondents No.3 & 4 and that, the said detention requires to be lifted and the boy should be produced before us, so that, ultimate orders could be passed. Time & again the matter has come to be adjourned after the notice was given to the other side. Our endeavour were to see that the police machinery moves fast with necessary care & caution so that, ultimately the missing boy Kishor could be traced. Now we have got a detailed report saying that, way back on November 21, 1995, the petitioner had lodged the necessary complaint before Sardarnagar police station. Firstly some entry came to be effected in the police station diary, but, ultimately the offences were registered and the Respondents No. 3 & 4 against whom the allegations are levelled came to be arrested and were remanded to the police custody for a period of five days. It is also clear that, later on, on May 17, 1996, the police had afforded an opportunity to the petitioner of being heard with the assistance of his counsel. Thus the report being submitted by the police would go to show that, way back in year 1995 the offence came to be registered against the above said two respondents and that there was absolutely no material to warrant a conclusion that the missing boy Kishor could be in the custody either of Respondent No.3 or Respondent No.4. We accept this position and therefore in our opinion, the habeas corpus proceedings would come to an end. The proceedings shall be required to be disposed of. We order accordingly.

Learned counsel for the petitioner Mr. Sharma makes a tenacious grievance before us by saying that, the police has not acted in a proper manner and that, yet, there could be some chances of the recovery of the boy if concentrated police actions are taken. Nothing could be done by us in respect of this prayer. It could be for the petitioner to have the necessary proceedings in this respect before the appropriate forum by taking out fresh proceedings, so that suitable orders if any can be given to the petitioner.

We have restrained by our earlier orders the Respondent No.4 from leaving the country. We say that the said direction should prevail for a further period of one month hereof.
